

MILLARD J. LONKEY

FCI 1900 Simlar RD

BIG SPRING, TEXAS 79720

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

MAY 01 2020

BY D. MARK JONES, CLERK

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES of America

VS.

MILLARD J. LONKEY

CASE #2:15CR368

ADDENDUM TO MOTION FOR
RECONSIDERATION UNDER Rule
59e.

Judge DAVID Nuffer

Defendant comes now to address this Honorable Court, bringing to its attention U.S. v. Sawicz, 08cr287 (ARR) (E.D.N.Y.) April 10, 2020. The Court found that "Even where [ADMINISTRATIVE] exhaustion is seemingly mandated by statute or regulatory law, the requirement is not absolute. *Washington v. Barr*, 925 F.3d 109, 118 (2nd Cir 2019). The Court went on to say that "A court may waive an administrative exhaustion requirement "where [EXHAUSTION] would be futile, . . . where the administrative process would be incapable of granting adequate relief . . . [OR] where pursuing agency review would subject [the person seeking relief] to undue prejudice" further, "[U]ndue delay, if it in fact results in catastrophic health consequences, "can justify waiving an administrative exhaustion requirement for any of those three reasons." id at 120-21.

Here the Court determined that the COVID-19 outbreak (at Danbury FCI) combined with Sawicz's risk of suffering severe complications because of his hypertension justified waiver. "The delay that the defendant would experience if he had to wait for 30 days before pursuing a motion for compassionate release in this Court would put him at significant risk of suffering

CATASTROPHIC health consequences."

THE COURT ALSO STATED THAT EXTRAORDINARY AND COMPELLING REASONS WARRANTED SAWICZ'S release here by way of the COVID-19 PANDEMIC COMBINED WITH SAWICZ'S PARTICULAR VULNERABILITY TO COMPLICATIONS FROM COVID-19 BECAUSE OF HIS HYPERTENSION.

SAWICZ'S COMPASSIONATE release MOTION WAS GRANTED AND HIS SENTENCE WAS REDUCED TO TIME SERVED. HE WAS ORDERED TO BE IMMEDIATELY RELEASED UPON THE RECEIPT OF THIS ORDER (AS OPPOSED TO 14 DAYS IN QUARANTINE AT DANBURY) AND HE WAS TO BE SENTENCED TO HOME CONFINEMENT THAT INCLUDED HOME INCARCERATION TO BE ENFORCED BY LOCATION MONITORING.

DEFENDANT SUFFERS FROM HYPERTENSION, CORONARY ARTERY DISEASE, CHRONIC OBSTRUCTIVE PULMONARY DISEASE AND REQUIRES BACK SURGERY, IN ADDITION TO HIS VISION DIPLOPIA.

THE DEFENDANT PRAYS THAT THIS HONORABLE COURT DOES THE "RIGHT THING" AND GRANTS RELIEF OF TIME SERVED.

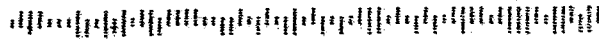
MILLARD J. Lonkey

APRIL 27, 2020

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL CORRECTIONAL INSTITUTION
1900 SIMLAR AVENUE, BIG SPRING, TEXAS 79720

DATE: 4/25/20

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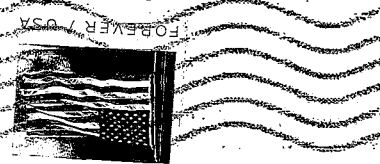
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